

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

Court Minutes

June 21, 2010

At 9:30 a.m., the court met at 621 Capitol Mall, 10th Floor to begin its court calendar session. Present were Scotland, Presiding Justice; Sims, Associate Justice; Raye, Associate Justice; and Horner, bailiff.

C061947 GILB, as Director, etc., et al. v. CHIANG, as Controller, etc., et al.; SERVICE EMPLOYEES INTERNATIONAL UNION, etc., et al.

Cause called. Steven S. Rosenthal argued and Deborah Caplan, Patrick Whalen, and Jonathan Yank appeared only for appellant. Christopher E. Thomas argued and Linda A. Mayhew appeared only for respondent. Cause submitted.

At 10:34 a.m., the court recessed. At 10:36 a.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Robie, Associate Justice.

C059930 EVENSON v. BROWN

Cause called. Darrell E. Evenson argued in pro. per. for appellant. Charles Hensley Brown argued in pro. per. for respondent. Cause submitted.

At 10:50 a.m., the court recessed. At 10:52 a.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Robie, Associate Justice.

C060379 GRAYSON ENGINEERING v. ARNAIZ DEVELOPMENT COMPANY, INC., et al.

Cause called. Jeffrey A. Silvia argued for appellant. James M. Morris argued for respondent. Cause submitted.

At 11:00 a.m., the court recessed. At 11:04 a.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Cantil-Sakauye, Associate Justice.

C061186 THE PEOPLE v. ANDREW BENSON BUSCH

Cause called. David Annicchiarico, court appointed counsel, argued for appellant. Christina Hitomi Simpson, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:24 a.m., the court recessed until 9:30 a.m., Tuesday, June 22, 2010.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

Court Minutes

June 21, 2010, Continued

**C063454 In re J.P.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. J.P.**

BY THE COURT:

Appellant's petition for rehearing is denied.
HULL, Acting P.J.

June 22, 2010

At 9:30 a.m., the court met at 621 Capitol Mall, 10th Floor to begin its court calendar session. Present were Sims, Associate Justice; Nicholson, Associate Justice; Butz, Associate Justice; and Haskett, bailiff.

C056370 THE PEOPLE v. MARYANNE STEIN

Cause called. Christine Vento, court appointed counsel, argued for appellant. John G. McLean, Deputy Attorney General, argued for respondent. Cause submitted.

CONSOLIDATED WITH

C058537 THE PEOPLE v. GARY ALLEN BORTIS

Cause called. Clifford Gardner, court appointed counsel, argued for appellant. John G. McLean, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:11 a.m., the court recessed. At 10:13 a.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

C060490 THE PEOPLE v. NICHOLAS JASON BEAVER

Cause called. Thomas M. Singman, court appointed counsel, argued for appellant. Wanda Hill Rouzan, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:40 a.m., the court recessed. At 10:42 a.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Cantil-Sakauye, Associate Justice.

**COURT OF APPEAL
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June 22, 2010, Continued

C061980 THE PEOPLE v. RONALD DEAN JEHA

Cause called. George C. Harris argued for appellant. Rachelle A. Newcomb argued for respondent. Cause submitted.

At 11:09 a.m., the court recessed. At 2:03 p.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

C060346 WALNUT PRODUCERS OF CALIFORNIA et al. v. DIAMONDS FOODS, INC.

Cause called. Henry I. Bornstein argued for appellant. Jeffrey J. Lederman argued and Jeffrey S. Bosley appeared only for respondent. Cause submitted.

At 2:33 p.m., the court recessed. At 2:36 p.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Butz, Associate Justice.

C060296 STAGGS v. UNION PACIFIC RAILROAD COMPANY et al.

Cause called. Charlotte E. Costan argued for appellant. Joseph P. Mascovich argued for respondent. Cause submitted.

At 2:53 p.m., the court recessed. At 2:55 p.m., the court reconvened with Nicholson, Associate Justice; Robie, Associate Justice; and Butz, Associate Justice.

C059402 THE PEOPLE v. RONALD WILSON HARPE

Cause called. Mark Greenberg, court appointed counsel, argued for appellant. Julie A. Hokans, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:08 p.m., the court recessed. At 3:11 p.m., the court reconvened with Hull, Associate Justice; Robie, Associate Justice; and Butz, Associate Justice.

C060005 THE PEOPLE v. D'ARSEY LAWRENCE BOLTON

Cause called. William George Prael, court appointed counsel, argued for appellant. Jeffrey Grant, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:32 p.m., the court recessed until 2:00 p.m., Wednesday, June 25, 2010.

**COURT OF APPEAL
STATE OF CALIFORNIA
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Court Minutes

June 22, 2010, Continued

**C060358 THE PEOPLE v. (Certified For Partial Publication)
JASON ALEXANDER MORRIS**

The section 667.9 enhancement is stricken, and the convictions for grand theft and petty theft with a prior are vacated. The case is remanded to the trial court for resentencing on the robbery conviction.

ROBIE, J.

I concur: Hull, J.

With one exception, my colleagues got it right. We differ only on whether there is sufficient evidence to support the jury's finding that defendant knew or reasonably should have known that the victim of his crime was "developmentally disabled" within the meaning of Penal Code section 667.9, subdivisions (a) and (d). ...

Scotland, P.J.

**C061300 THE PEOPLE v. (Not For Publication)
GEORGIA LYNN RILEY**

The judgment is affirmed.

BLEASE, Acting P.J.

We Concur: Sims, J.

Hull, J.

**C061457 THE PEOPLE v. (Not For Publication)
JASON ADAM HOLTMAN**

The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting 302 days of conduct credit credits, plus 302 days of actual credits for 604 days total credits, and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

BLEASE, Acting P.J.

We Concur: Sims, J.

Hull, J.

**C061631 THE PEOPLE v. (Not For Publication)
MASOQ A. QAYOUMI**

The judgment is affirmed.

BLEASE, Acting P.J.

We Concur: Sims, J.

Hull, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

Court Minutes

June 22, 2010, Continued

- C062543 THE PEOPLE v. (Not For Publication)**
WILLIE WALKER, JR.
The judgment is modified... The trial court is further directed to forward a copy of the amended abstract to the Department of Corrections and Rehabilitation.
HULL, Acting P.J.
We Concur: Butz, J.
Cantil-Sakauye, J.
- C062956 THE PEOPLE v. (Not For Publication)**
JESSE RAY LEMING
The judgment is affirmed.
SCOTLAND, P.J.
We Concur: Sims, J.
Robie, J.
- C060873 WHITTEMORE et al. v. (Certified For Partial Publication)**
**OWENS HEALTHCARE – RETAIL
PHARMACY INC., etc., et al.**
The judgment is affirmed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (5).)
BLEASE, J.
We Concur: Scotland, P.J.
Sims, J.
- C060888 PETERS et al. v. ESCOBAR et al. (Not For Publication)**
The judgment and attorney fees are affirmed. The defendants shall recover their costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1).)
NICHOLSON, J.
We Concur: Sims, Acting P.J.
Butz, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

Court Minutes

June 22, 2010, Continued

C061669 In re KYLE E.; SACRAMENTO COUNTY (Certified For Partial Publication)
DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. MICHAEL E.

The court's finding that the minor's "injury or detrimental condition . . . would ordinarily not be sustained, except as the result of the unreasonable or neglectful acts or omissions of" appellant is stricken, as is the court's finding that "[t]he whereabouts and/or identity of the father, Michael [E.], are unknown and a reasonably diligent search has failed to locate the father."

We reverse the court's order of visitation as to appellant and remand for further proceedings consistent with part IV of this opinion.

In all other respects, the juvenile court's jurisdictional findings and dispositional order are affirmed.

BUTZ, J.

We Concur: Sims, Acting P.J.
 Cantil-Sakauye, J.

C062458 In re J.P.; SACRAMENTO COUNTY (Not For Publication)
DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. T.P.

The orders of the juvenile court are affirmed.

SIMS, Acting P.J.

We Concur: Robie, J.
 Butz, J.

C063212 In re D.M.; THE PEOPLE v. D.M. (Not For Publication)

Probation condition j. is modified to provide that the minor: "Not knowingly use or possess alcohol or illegal drugs, including marijuana and toluene. Not knowingly possess paraphernalia associated with the use of such substances. Not knowingly use or possess any controlled substances not prescribed by a licensed physician or dentist. Until age 18, not to knowingly use or possess tobacco." As modified, the judgment (order) is affirmed. The juvenile court is directed to forward a certified copy of the modified probation order to the probation authorities.

SIMS, J.

We Concur: Scotland, P.J.
 Raye, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

Court Minutes

June 22, 2010, Continued

C062967 **In re MANUEL JOSE MAES, JR.** **(Certified For Publication)**
On Habeas Corpus.

The order to show cause in this proceeding is discharged, and the petition for writ of habeas corpus is denied.

CANTIL-SAKAUYE, J.

We Concur: Raye, Acting P.J.
 Butz, J.

June 23, 2010

At 2:00 p.m., the court met at 621 Capitol Mall, 10th Floor to begin its court calendar session. Present were Sims, Associate Justice; Raye, Associate Justice; Hull, Associate Justice; and Haskett, bailiff.

C060196 **ORANEN v. PRICE**

Cause called. A. Kipp Williams argued for appellant. G. Dale Britton argued and Jason W. Schaff appeared only for respondent. Cause submitted.

At 2:31 p.m., the court recessed until 9:30 a.m., Friday, June 25, 2010.

C060135 **THE PEOPLE v. JOSEPH WEBER** **(Certified For Partial Publication)**
THE COURT:

The opinion filed on June 7, 2010, is modified...

This modification does not change the judgment.

SIMS, Acting P.J.

Nicholson, J.

Raye, J.

C061097 **In re the Marriage of JAYRAJ and** **(Not For Publication)**
C062004 **BINDU NAIR; NAIR v. NAIR**

THE COURT:

It is ordered that the opinion filed herein on June 10, 2010, be modified...

This modification does not change the judgment.

Appellant's petition for rehearing is denied.

SIMS, Acting P.J.

Raye, J.

Hull, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

Court Minutes

June 24, 2010

- C060930 THE PEOPLE v. KANZA YAWILI (Not For Publication)**
The judgment is affirmed.
ROBIE, J.
We Concur: Hull, Acting P.J.
Butz, J.
- C059911 THE PEOPLE v. DAVELA LEONE CANNON, SR.**
BY THE COURT:
The request to publish the opinion filed by the County of Sacramento,
Office of the Public Defender on May 28, 2010, is denied.
SIMS, Acting P.J.
- C060575 CANN v. OROVILLE UNION HIGH SCHOOL DISTRICT**
BY THE COURT:
The requests filed by respondent Oroville Union High School District and
Education Legal Alliance of the California School Boards Association to publish
the opinion filed on May 27, 2010, are denied.
SIMS, Acting P.J.
- C060930 THE PEOPLE v. KANZA YAWILI**
BY THE COURT:
Appellant's motion to recall the remittitur is granted. The decision filed on
March 30, 2010, is vacated and the appeal is reinstated. The Sacramento
County trial court is directed to forthwith return the remittitur issued June 2, 2010.
The clerk of this court is directed to refile the opinion issued March 30,
2010, as of this date.
HULL, Acting P.J.
- C064898 RUMIANO v. RUMIANO et al.**
BY THE COURT:
Respondent's request for judicial notice and motion to dismiss the appeal
are granted. Therefore, the appeal filed on April 30, 2010, is dismissed.
HULL, Acting P.J.

The judgment is affirmed. Plaintiff shall pay defendants' costs of this appeal. (Cal. Rules of Court, rule 8.278 (a).)

RAYE, J.

We Concur: Blease, Acting P.J.

Nicholson, J.